

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

November 16, 2009 – 7:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
.....

Present: Carl Ford, Chairman
Jon Barber, Vice-Chairman
Raymond Coltrain, Member
Tina Hall, Member
Chad Mitchell, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey and County Attorney Jay Dees were present. Finance Director Leslie Heidrick was absent.

Chairman Ford convened the meeting at 7:00 pm.

Commissioner Hall provided the Invocation and also led the Pledge of Allegiance.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the minutes of the November 2, 2009 Commission Meeting passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

There were no additions to the agenda.

CONSIDER DELETIONS FROM THE AGENDA

- Commissioner Hall moved to delete item #9 (Presentation Regarding Air Quality) from the agenda. The motion was seconded by Commissioner Mitchell.

Commissioner Coltrain read from the Rowan County Board of Commissioners Code of Conduct. Commissioner Coltrain said he believed the individual who developed information for a board meeting was the member most knowledgeable of the item and that once the agenda packets were prepared, other board members were free to

discuss the issue. Commissioner Coltrain felt the member that placed the topic on the agenda was the only one who knew the value of the item and the individual should be the only one to initiate removal of the item from the agenda.

Upon being put to a vote the motion passed 3-2 with Commissioners Coltrain and Barber dissenting.

Commissioner Barber said there were many citizens in Rowan County who were concerned with air quality and that he would have liked to have received the information.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Mitchell moved, Commissioner seconded and the vote to approve the agenda carried unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Mitchell moved to pull item C from the Consent Agenda. Chairman Ford added the issue as agenda item #15a.

Commissioner Barber moved approval of the Consent Agenda. The motion was seconded by Commissioner Mitchell and carried unanimously.

The Consent Agenda consisted of the following:

- A. Approval for Parks to Submit North Carolina Parks And Recreation Trust Fund Grant for Ellis Park
- B. Approval of Health Department Request to Lease Storage Space from Suntrust Bank (Delayed from September 21, 2009 Commission Meeting)
- C. Set Public Hearing for January 4, 2010 to Consider Proposed Text Amendments to the Rowan County Administration Ordinance (moved to agenda item #15a for discussion)
- D. Set Public Hearing for December 7, 2009 to Consider Proposed Text Amendments to Rowan County Ambulance Ordinance
- E. Set Public Hearing for December 7, 2009 for Proposed Road Name of Winning Way
- F. Set Public Hearing for December 7, 2009 for Z-04-09
- G. Approval of Notice of Intent for December 7, 2009 for Consideration of Resolution Levying An Additional One-Quarter Cent County Sales and Use Tax

2. PUBLIC COMMENT PERIOD

Chairman Ford opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Larry Wright thanked the Board for its decision at the last Commission Meeting to withdraw from Centralina Council of Governments (COG).
- Jim Sides said it was the time of year to be thankful and share good news. He then read several Bible scriptures.
- Ann Hayes Browning with the Carolina Thread Trail referred to agenda item #6 (Public Hearing / Consider Approval of Eminent Domain Resolution). Ms. Browning read Carolina Thread Trail's mission statement and said the organization was a non-profit organization with an invitation to communities to participate in the project. Ms. Browning said community self-determination was at the core of the project and Carolina Thread Trail was ready to help in any way possible.

With no one else wishing to address the Board, Chairman Ford closed the Public Comment Period.

3. PUBLIC HEARING FOR PROPOSED ADDRESS CHANGE – CURRENTLY KNOWN AS 125 WEST PARK

Planning Technician Fredda Greer said staff had become aware that the address 125 W. Park Drive was out of the odd/even sequence and proposes to correct the situation by assigning the address of 110 W. Park Drive. Ms. Greer explained that addresses out of sequence may compromise the efficiency of the E-911 system.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed address change for 125 W. Park Drive to 110 W. Park Drive.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the recommended address change from 125 W. Park Drive to 110 W. Park Drive passed unanimously.

4. PUBLIC HEARING FOR PROPOSED ADDRESS CHANGE – CURRENTLY KNOWN AS 3292 POOLE ROAD

Planning Technician Fredda Greer said staff had noticed the address of 3292 Poole Road was out of sequence with the block range numbers of Poole Road and became apparent that the structure was actually accessed from Hyde Lane. Ms. Greer said staff proposes to correct the situation by assigning 155 Hyde Lane to the residence to make the address reflect its physical location for emergency personnel.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed address change for 3292 Poole Road to 155 Hyde Lane.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the recommended address change from 3292 Poole Road to 155 Hyde Lane passed unanimously.

5. PUBLIC HEARING FOR PROPOSED ADDRESS CHANGE – CURRENTLY KNOWN AS 3390 POOLE ROAD

Planning Technician Fredda Greer said staff had become aware that the address 3390 Poole Road was out of block range sequence. Ms. Greer explained there was a potential danger for emergency personnel in locating the address and therefore staff proposes to correct the address to become 3250 Poole Road. Ms. Greer added that the address did not appear to be the owner's principal mailing address.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed address change for 3390 Poole Road to 3250 Poole Road.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the recommended address change from 3390 Poole Road to 3250 Poole Road passed unanimously.

6. PUBLIC HEARING / CONSIDER APPROVAL OF EMINENT DOMAIN RESOLUTION

Chairman Ford said the Board had directed staff to develop the proposed resolution after it had previously discussed a 'resolution of support' for the Carolina Thread Trail. Chairman Ford said the resolution proposed that the Board would not use the power of eminent domain to support or fund acquisition of property for the development of greenways or public trails. Chairman Ford said the Planning Board unanimously recommended forwarding the draft resolution to the Board for consideration.

Chairman Ford opened the public hearing to entertain comments from any citizens regarding the *Resolution Protecting Rowan County Landowners from Forced Access Across their Property for Development of Public Trails by Means of Eminent Domain*.

The following individuals came forward:

- Jim Sides questioned adoption of a resolution that had limited authority versus the possibility of changing the County Code of Ordinances to

- incorporate the language. Mr. Sides said the resolution would not bind a future Board and that he felt an ordinance would be more permanent.
- Jeff Morris agreed with Mr. Sides that an ordinance would be a positive action and he asked the Board to consider a County ordinance to exercise restraint and not use eminent domain for recreation trails or for economic development.

With no one else wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Barber said the Board did not need to stop with the passage of the resolution. Commissioner Barber said the North Carolina General Statutes (NCGS) should also be changed and he encouraged the Board to discuss promoting legislative changes with legislators. Commissioner Barber was of the opinion that the resolution was about protecting personal freedoms.

Commissioner Coltrain said he did not believe any governmental entity would succeed in condemning or taking private property for recreational purposes. Commissioner Coltrain said he agreed with the resolution in principle but did not see the need for it.

Commissioner Hall moved to adopt the Resolution. Commissioner Hall further asked that planning staff/planning board bring about a possible change to the ordinance to make the Board's actions more permanent. The motion was seconded by Commissioner Barber and passed unanimously.

The Resolution read as follows:

Resolution Protecting Rowan County
Landowners from Forced Access Across their Property
for Development of Public Trails by Means of Eminent Domain

WHEREAS, North Carolina General Statutes (NCGS) Chapter 40A Article 1-5 provides condemnation procedures for all private condemnors, local public condemnors and other public condemnors exercising eminent domain; and

WHEREAS, "Eminent Domain" as defined in NCGS 40A-2(3) means the power to divest right, title, or interest from the owner of property and vest it in the possessor of the power against the will of the owner upon the payment of just compensation for the right, title, or interest divested; and

WHEREAS, "Property" as defined by NCGS 40A-2(7) means any right, title, or interest in land, including leases and options to buy or sell and also includes rights of access, rights-of-way, easements, water rights, air rights, and any other privilege or appurtenance in or to the possession, use and enjoyment of land; and

WHEREAS, a recommendation contained in Section 4.6 of the Rowan County Land Use Plan for the Areas West of I-85 adopted by the Rowan County Board of Commissioners on April 20, 2009 states, "No public trails should be proposed across private lands, or farmlands, unless the property owner voluntarily consents to them."; and

WHEREAS, the Rowan County Board of Commissioners proposes to endorse a policy of protection for Rowan County landowners from forced access across their property for development of public trails by means of eminent domain.

NOW THEREFORE BE IT RESOLVED, that the Rowan County Board of Commissioners will not utilize authority vested by NCGS Chapter 40A Articles 1-5 to endorse, pursue, support (financially or otherwise), the acquisition of property through eminent domain for development of greenways or public trails by any local agency or jurisdiction; state or national agency; and private or other public condemnors.

7. CONSIDER APPROVAL OF SNIA 04-09 PERMIT APPLICATION

Planning Technician Fredda Greer reported that 33 Racing LLC had submitted a Special Non-Residential Intensity Allocation (SNIA) request to build a 15,000 sq. ft. race shop at 305 Pit Road to manufacture automobiles.

Ms. Greer said the site was in the Coddle Creek Watershed. Ms. Greer said the total lot size for the property was 1.25 acres, or 54,450 square feet. Ms. Greer said the allowable coverage area was 6,534 square feet and the request was for 31,799 square feet. Ms. Greer said the watershed size was permitted to have 11,885 acres covered and at this point only 1% of that total had been reached.

Ms. Greer said Staff recommended approval of the request based on the site plan provided.

Commissioner Mitchell moved approval of SNIA 04-09. The motion was seconded by Commissioner Barber and carried unanimously.

8. RECOGNITION OF RETIRING DIRECTOR OF ADMINISTRATION KEN DEAL

Chairman Ford recognized retiring Director of Administration Ken Deal for his twenty-three years of service. Chairman Ford read from a plaque, which he then presented to Mr. Deal.

A round of applause followed the presentation.

9. PRESENTATION REGARDING AIR QUALITY

This issue was deleted from the agenda at the beginning of the meeting.

10. DISCUSSION OF OFFER FROM ROWAN COUNTY FAIR ASSOCIATION FOR PURCHASE OF FAIRGROUNDS PROPERTY

County Manager Gary Page said the Rowan County Fair Association (RCFA) had requested to appear before the Board to present a proposal to purchase a portion of the fairgrounds property.

Doug Smith, Attorney for the RCFA, as well as the RCFA Manager, John Love came forward to address the Board.

Mr. Smith said the RCFA had delegated a committee to make an offer to the Board.

Mr. Love said the RCFA was operating under the last year of its lease for the fairgrounds property. Mr. Love said the RCFA was interested in purchasing the property on the north side of the road where the buildings were located. Mr. Love asked the Board to appoint a committee to meet with the RCFA to negotiate the offer.

Mr. Smith said the intent of the RCFA was to negotiate the fine details in regards to financing and whether the County would consider financing the property. Mr. Smith said banks had been solicited, as well.

Mr. Love said the RCFA was offering \$12,500 per acre but the offer was negotiable.

Commissioner Coltrain felt the sale of the property would be a good move. Commissioner Coltrain said when visiting the fairgrounds during the week of the fair, one could “not buy the expressions on the faces” of those attending. Commissioner Coltrain encouraged the RCFA to continue to expand the services and activities it offered to citizens.

Mr. Smith said he had learned that Rowan County’s Fair had the largest livestock showing of any county fair in the state.

Commissioner Hall asked if the Spencer Jaycees were involved with the RCFA. Mr. Smith explained that the RCFA Board was made up of members from both Spencer and Faith Jaycees, with one (1) member from the Cattlemen’s Association who served as the “tie-breaker”.

Commissioner Hall said the Spencer Jaycees were under investigation by the State Bureau of Investigation (SBI) and asked if the RCFA was aware of the investigation. Mr. Smith responded yes.

Commissioner Hall expressed concern with the timing of the request and with funds going to the Spencer Jaycees while an embezzlement investigation was taking place.

Commissioner Hall questioned the County Manager as to the price per acre for land that had been sold for a large housing complex beside the fairgrounds property. Mr. Page said he felt the price had been tied to the income capability of the property since rent was to be charged.

Commissioner Hall said she thought there was a sizable difference between what the RCFA was offering and what had been paid for the adjacent property. Commissioner Hall said the Board had historically considered the fairgrounds

property to be valuable and one reason for the three (3)-year lease with the RCFA was to give the Board flexibility. Commissioner Hall said the property was incredibly valuable to the citizens of Rowan County and that she was hesitant to sell the land at this time. Commissioner Hall said she could, however, be interested in extending the lease.

Mr. Smith said the RCFA wished to discuss options for the property or possibly other property as a fairgrounds site. Mr. Smith said the RCFA was a separate entity from the Spencer Jaycees and while there were members of the Spencer on the RCFA Board, they did not have a controlling interest or majority vote. Mr. Smith said the amount of funds to be dispersed was voted upon by the entire Board.

Commissioner Hall said the County Manager would research the price of the property that had been sold next to the fairgrounds.

Commissioner Barber said further discussion was required concerning the offer and felt the Board should appoint a committee to work with the RCFA to provide recommendations to the Board.

Commissioner Mitchell said he was not against pursuing the offer; however he was concerned that the Board was still considering a location for the new jail. Commissioner Mitchell said the annual fair was good for the community and he felt a permanent site was needed to host the event. Commissioner Mitchell supported the Chairman and the County Manager, or the Chairman and one (1) Commissioner, meeting with members of the RCFA to discuss options.

Commissioner Barber mentioned the economic benefits of an agricultural fair and the potential for its growth with the establishment of a permanent site for the event.

Chairman Ford said he would work with the County Manager on the issue. Chairman Ford said he did not feel that a sale would be approved this year and that negotiations for an extension of the lease would be necessary. Chairman Ford said the offer should be higher, and that there should also be conclusion to the SBI investigation.

Commissioner Mitchell moved to task the Chairman and the Manager to meet with the committee as set up by the RCFA and if it appeared an agreement would not be reached then allow the same committee to look at a lease extension to bring back to the Board. The motion was seconded by Commissioner Barber and passed unanimously.

11. CONSIDER APPROVAL OF JAIL DESIGN

County Manager Gary Page said the Board had been aware of the need for additional jail space. Mr. Page said Rowan County was sending inmates to

Sampson County at a cost of \$650,000 annually. Mr. Page said a Jail Annex Committee (Committee) had been appointed and Moseley Architects was selected to build the jail. Mr. Page said the Committee had been working with Moseley Architects to develop a schematic design for the new facility.

Mr. Page showed a drawing of the proposed jail and reviewed the choices made thus far. Mr. Page explained that Phase 1 required a site of six (6) to ten (10) acres and the estimated cost was \$6 million. Mr. Page said if the Board chose to add on Phase 2 some expenses would be cut since an additional kitchen, parking area, etc. would not be needed. Mr. Page said there was the capability for an expansion of the facility.

Sheriff George Wilhelm pointed out additional details for the facility.

Mr. Page said at this point the Committee believed the proposed schematic design was how the jail should look. Mr. Page said with the Board's approval the architect would start designing blueprints. Mr. Page said \$45,000 in expenses had been incurred thus far.

Mr. Page said the Jail Annex Committee believed the design met the budget, was functional and met with the Sheriff's approval.

Commissioner Barber inquired if the schematic design met the state's minimum specification requirements and that the design did not go "above and beyond" what was required. Mr. Page responded yes.

Commissioner Barber moved approval of the schematic design for the jail annex.

Commissioner Hall inquired if the design would be flexible for any site selected. Mr. Page responded that the design would fit any site.

Commissioner Coltrain seconded and the motion passed unanimously.

12. CONSIDER APPROVAL OF INMATE HOUSING CONTRACT WITH MONTGOMERY COUNTY

Chief Deputy Kevin Auten said the County had been housing inmates in Sampson County for two (2) years and an opportunity had been presented to move the contract to Montgomery County. Chief Deputy Auten said he and Sheriff Wilhelm had toured the facility and there were several advantages for moving the contract.

Chief Deputy Auten said the Montgomery County contract was identical to the Sampson County contract with the exception of item # 5, Daily Rate. Chief Deputy Auten explained the differences in the daily rates and also the savings that would be realized in fuel and labor due to Montgomery County being closer.

Chief Deputy Auten pointed out that the Sampson County contract had been signed by each county's Commission Chairman where the Montgomery County contract allowed for the Sheriff of each county to sign.

After a brief question and answer period, Commissioner Mitchell moved approval of the proposed agreement with two (2) points as follows:

1. A pre-audit certification be added to the bottom of the new contract
2. Clarity of signature to ensure the signature by Sheriff was legally binding

Commissioner Barber seconded and the motion passed unanimously.

13. DISCUSSION REGARDING DECEMBER MEETING SCHEDULE

Chairman Ford opened the floor for discussion regarding the Board's preference for holding a second meeting in the month of December. Chairman Ford said several department directors had been consulted and at this time, there were no issues that would require a second meeting.

Commissioner Mitchell moved to hold only one meeting on December 7, 2009 at 4:00 pm. Commissioner Barber seconded and the motion passed unanimously.

14. DISCUSSION REGARDING DATE/SITE/FACILITATOR FOR 2010 ANNUAL PLANNING RETREAT

Commissioner Mitchell said his personal preference was to forego an annual planning retreat for 2010. Commissioner Mitchell said if there became a need for the Board to receive information on a specific item, the information could be presented as the Board moved forward with the budget. Commissioner Mitchell said the past several retreats had included identical information with the same requests for money. Commissioner Mitchell said there was no extra money to budget for 2010 and several ongoing projects that needed to be completed.

Commissioner Barber disagreed with Commissioner Mitchell and said he believed the Board should meet for at least a day to discuss job creation and job retention in Rowan County. Commissioner Barber said the Board had asked the Economic Development Commission (EDC) to make a recommendation on potential options for jobs and he felt it would require more than a brief presentation.

Commissioner Barber highlighted the following topics that he felt should be discussed at the retreat:

- EDC recommendations
- Updates from Rowan Salisbury Schools and Kannapolis City Schools
- Fieldcrest Cannon Stadium lease agreement

Commissioner Barber added that the Board could meet without hiring a facilitator.

Commissioner Coltrain agreed with Commissioner Barber and said the Board could review how “plans made had been affected and the view for the future”. Commissioner Coltrain said there could also be additional issues forthcoming. Commissioner Coltrain suggested the Board prepare a list of ideas to be considered at the first meeting in January for a retreat.

Commissioner Hall said she was not opposed to meeting for planning purposes but she did not feel a facilitator for the meeting would be necessary.

Chairman Ford said the past retreat was his first retreat as a Commissioner where he had attended the previous two (2) retreats as a citizen. Chairman Ford said the same items were discussed all three (3) years and there were still items that went to committees or were discussed again at commission meetings. Chairman Ford said he supported a one (1) day retreat or no retreat at all.

Commissioner Mitchell said if a special meeting was needed to allow the EDC to make a presentation, the Chairman or the majority of the Board could call the meeting. Commissioner Mitchell said the Board could still discuss pressing matters as necessary.

Commissioner Mitchell moved not to plan a retreat with the knowledge that the Chairman or a majority of the Board could call a special meeting if “we can’t get something done within the context of a regular meeting”. Commissioner Hall seconded and the motion passed 4-1 with Commissioner Coltrain dissenting.

15. CONSIDER APPROVAL OF RESOLUTION REGARDING LEGISLATIVE PURSUITS

Commissioner Hall said the proposed *Resolution Regarding Legislative Pursuits* was an attempt to be clear amongst the Commissioners and the community as to how the Board operated. Commissioner Hall said she had contacted David Lawrence with the School of Government (SOG) and he recommended the Board approve a resolution. Commissioner Hall reported that Mr. Lawrence had said the boards across the state act collectively and when members meet with various groups it should be made clear whether the official was acting individually or on behalf of the board.

Commissioner Hall said the Resolution was an attempt to help everyone understand where “we’re working from” and she then read the Resolution.

Commissioner Hall moved to pass the Resolution Regarding Legislative Pursuits. The motion was seconded by Commissioner Mitchell.

Commissioner Coltrain read the memorandum in the agenda packet from Commissioner Hall. Commissioner Coltrain said in regards to the meeting in question, he “was acting as an individual who happened to be a County Commissioner in facilitating the meeting as requested by the mayors of the

municipalities". Commissioner Coltrain said he had clearly stated several times that he was acting as an individual and the discussion was not County initiated. Commissioner Coltrain said the resolution discussed at the meeting was for possible action by the municipalities.

Commissioner Coltrain said he was elected by the citizens of Rowan County to explore issues and bring them before the Board for consideration and action as merited. Commissioner Coltrain said he would continue to respond to the requests of an individual citizen or a group of citizens to help them as appropriate. Commissioner Coltrain said he would develop and bring the topics to the Board by placing them on the agenda, which is "my responsibility and my prerogative as an elected county commissioner". Commissioner Coltrain said he worked for the people, not the Board, or an individual on the Board.

Commissioner Coltrain discussed the meeting in question and explained that he had been approached by a citizen regarding dialogue for the future of the I-85 corridor. Commissioner Coltrain said he had shared the information with the County Manager and the Planning Director and during the discussion with the Planning Director, a comment was made to involve the municipalities. Commissioner Coltrain said he had personally visited with each of the Mayors within the I-85 corridor and each one had received the possibility for discussion of the I-85 corridor enthusiastically. Commissioner Coltrain said he arranged for the Mayors to meet on November 4, 2009 and at the meeting, the Mayors decided they wanted to develop a resolution for their respective boards to consider. Commissioner Coltrain said if the municipalities approved the resolution he would submit the information for the Commissioners to hopefully support the voluntary, non-binding action by the communities in the County.

Commissioner Coltrain said on a personal note he considered the fact that the performance of his responsibilities as a Commissioner was even on the agenda for public criticism was a personal insult and illustrated a complete lack of professional courtesy. Commissioner Coltrain encouraged the board members to contact him if they had questions regarding his actions.

Commissioner Barber said the style of government Rowan County operated under required individual commissioners to bring an issue up in a public board meeting, debate the issue, vote on the proposed action, and then through the Manager and staff, execute the action. Commissioner Barber said the resolution presented, as written, would not in his opinion stop an individual commissioner from doing exactly what the memo described Commissioner Coltrain as doing. Commissioner Barber said in his opinion the actions of Commissioner Coltrain did not violate in spirit, or fact, the open meetings law.

Commissioner Barber said he agreed with the spirit of the resolution, specifically pertaining to an individual Commissioner's authority to act or represent the full board without the Board's authorization. Commissioner Barber said if the Board

were to pass the resolution, there should be consideration for an amendment that would specifically restrict individual commissioners from discussing issues with county staff, except the manager, requesting information from county staff or committees or affiliated organizations, discussing issues with the Board's attorney, investigating county related issues and departments etc. without the approval of the full board.

Commissioner Barber said adoption of the resolution as presented, or including his suggested amendment, would not stop any Commissioner from doing what they wanted to do within the state laws governing a county commissioner's actions.

Commissioner Barber said to control the conduct of an individual commissioner would require at least a modification of the Board's Rules of Order along with some means of enforcement and penalty for violations. Commissioner Barber suspected citizens watching this agenda item would think the discussion was absurd. Commissioner Barber said there had been two (2) companies in the past week to announce they were shutting down their operations and he believed that citizens would have preferred for the Board to spend its time on job creation and retention. Commissioner Barber said he was not in favor of placing restrictions or limitations on individual freedoms and citizens would probably be insulted that the Board spent time on the issue. Commissioner Barber again stated he felt the issue was absurd.

Chairman Ford said the discussion on the I-85 corridor was warranted. Chairman Ford continued by saying when a Commissioner addressed a group, the Commissioner must preface his remarks by saying he was not speaking on behalf of the Board unless the Board had voted upon the issue. Chairman Ford said in regards to the meeting in question, he had been advised by one (1) mayor that he had been "uncomfortable" with the meeting and another had stated he was "clueless" about the meeting. Chairman Ford said I-85 should be discussed by the Board in a public setting before going out to various groups.

Commissioner Hall said she was going to let Commissioner Mitchell respond before making additional comments. Commissioner Mitchell responded that he was ready to vote.

Commissioner Hall said Commissioner Coltrain had mentioned professional courtesy. Commissioner Hall recalled a conversation between her and Commissioner Coltrain where she had stated that she wished the Board had been informed of the meeting. Commissioner Hall said she felt the Board was left "out of the loop". Commissioner Hall repeated that she called Mr. Lawrence who was an expert and was following his recommendation by presenting the resolution. Commissioner Hall said although Commissioner Coltrain disagreed, he had failed to extend professional courtesy to his Board and she felt it was time for the Board to act.

Commissioner Hall said as far as the spirit of the open meetings law, she wondered how many town council members, citizens, or if the Salisbury Post had been aware of the meeting for such a valuable topic. Commissioner Hall asked if Board members were to represent special interest groups, or everyone.

Commissioner Coltrain said he did not know which mayors the Chairman had referred to and he said I would “bet you my life” that the five (5) mayors involved in the drafting of the resolution knew what the meeting was about.

Commissioner Coltrain addressed Commissioner Hall and said as soon as information was developed that could be beneficial to the Board, “you can bet your life that it will be brought to you”. Commissioner Coltrain said he knew the guidelines, written and unwritten, and he would not and had not, spoken on behalf of the Board on any issue until the Board had taken a position.

Upon being put to a vote the motion on the floor passed 3-2 with Commissioners Coltrain and Barber dissenting.

The Resolution read as follows:

RESOLUTION REGARDING LEGISLATIVE PURSUITS

WHEREAS, County Commissioners should actively pursue policy goals they believe to be in the best interest of their constituents within the parameters of orderly decision-making, rules of the Board of County Commissioners and open government; and

WHEREAS, County Commissioners should conduct themselves at all times in a manner that promotes public confidence in the integrity of the office of County Commissioner and of county government.

NOW, THEREFORE BE IT RESOLVED, that the Rowan County Board of Commissioners acts collectively – not as individuals.

BE IT FURTHER RESOLVED, that any Commissioner must be authorized by the full Board before acting in any official capacity.

15a. Set Public Hearing for January 4, 2010 to Consider Proposed Text Amendments to the Rowan County Administration Ordinance

(This topic was pulled from the Consent Agenda for discussion).

Commissioner Mitchell said the information before the Board pertained to a request from the Clerk for minor text amendments to the Rowan County Code of Ordinances, specifically the Board of Commissioners Rules of Order.

Commissioner Mitchell explained that he had pulled the issue from the Consent Agenda to suggest additional text amendments for the Board’s consideration as follows:

- Commissioner Mitchell said it was his preference to change the first sentence in Section 2.209 from the Clerk preparing the agenda to the Chairman preparing the agenda for each regular, special and emergency

meeting. Commissioner Mitchell said agenda requests would go to the Clerk as they normally do and the Chairman would review the requests and set the agenda based on the amount of time that a particular meeting was going to take.

- Commissioner Mitchell said the second item, which could be added immediately after the first sentence was that no agenda item shall be set unless accompanied by the supporting information or documentation. Commissioner Mitchell said the Chairman would not have the authority to place an item on the agenda if the only supporting documentation was a memorandum.
- Lastly, Commissioner Mitchell proposed that the Chairman only set action items on the agenda. Commissioner Mitchell said if the Board wanted to receive informational items, those items could be added to the agenda by a vote at the meeting itself; however, he felt no simple informational items should be placed on the agenda. Commissioner Mitchell believed that informational items should be received by the Board in the form of a memo or through email. Commissioner Mitchell also felt that information supplied through power points should be emailed to the Board as well. Commissioner Mitchell said he did not see the need to sit through a 30-minute presentation when he could read the information as opposed to having someone read it to him.

Commissioner Mitchell moved that those three (3) changes be incorporated into the text that is presented to the public for the public hearing. The motion was seconded by Commissioner Barber.

Commissioner Coltrain agreed with Commissioner Mitchell but felt that Commission Meetings were the “vehicle” used to get information to the citizens. Commissioner Coltrain said Commissioners may not be aware of necessary action until information had been presented.

Commissioner Mitchell said if a particular power point prompted a Commissioner to believe action was needed, it could then be placed on the following agenda.

Commissioner Mitchell said obviously his requests and the motion would preclude the lines that say only the Commissioner who requested the item be placed on the agenda may have it removed. Commissioner Mitchell said it would also preclude the line that says that any Commissioner based on a timely request can have the item added to the agenda.

Upon being put to a vote the motion passed 4-1 with Commissioner Coltrain dissenting.

(See agenda item #18, at which point Commissioner Mitchell voted to schedule the public hearing for the above-mentioned text amendments).

16. CONSIDER APPROVAL OF RESOLUTION WITHDRAWING MEMBERSHIP FROM CENTRALINA COUNCIL OF GOVERNMENTS

Chairman Ford said the Board voted in regular session on November 2, 2009 to withdraw membership from Centralina Council of Governments (COG) and he highlighted the requirements for withdrawing.

Commissioner Hall moved to accept the *Resolution Withdrawing Membership From Centralina Council of Governments*. The motion was seconded by Commissioner Mitchell.

Commissioner Coltrain said he disagreed with the motion to withdraw but in order to follow the guidelines set forth by COG he would support the resolution. Commissioner Coltrain restated his position that he was not in support of withdrawing from COG.

Commissioner Barber recalled the Board previously discussing that the requirement for notice of intent to withdraw may be a part of the bylaws but he felt the requirement was not necessarily “concrete”. Commissioner Barber said he did not see what the penalties would be if the Board were to decide to withdraw in “May”. Commissioner Barber said the County had no idea how much it would cost to withdraw from COG and the costs to Senior Services and to EMS. Commissioner Barber reiterated his concerns from the November 2nd meeting and said he felt the best approach would have been to share the County’s concerns with COG. Commissioner Barber said he did not support withdrawing membership from COG but that he would support the resolution.

Upon being put to a vote the motion passed unanimously

17. CONSIDER APPROVAL OF BUDGET AMENDMENTS

Finance Director Leslie Heidrick provided the following budget amendments in the agenda packets for the Board’s consideration:

- Emergency Services - Budget restricted funds through United Way donation by citizen for EMS equipment/services - \$75
- Library - To budget changes in the local Smart Start Grant allocation that has been pending State approval - \$15,903
- Parks and Recreation - Transfer grant funds to be expended for Events Center Restroom project - \$8,750
- Senior Services/RTS - To match County budget line items to DOT Grant approved budget – \$17,294
- Social Services – Zero out state fund revenue account as no information was received to federal and state receipts separately - \$278,979

- Social Services – Funding for Crisis Intervention Administration federal funding was reduced - \$1,833
- Social Services – TANF Domestic Violence federal funding was reduced - \$3,472

Commissioner Mitchell moved, Commissioner Coltrain seconded and the vote to approve the budget amendments as presented passed unanimously.

18. COUNTY MANAGER'S MONTHLY ACTIVITY REPORT TO THE BOARD / COUNTY MANAGER GARY PAGE

Commissioner Mitchell moved to accept the County Manager's monthly activity report to the Board. The motion was seconded by Commissioner Barber and passed unanimously.

- **Commissioner Mitchell referred to agenda item #15a and said he had failed earlier to make a motion to set a public hearing regarding the proposed text amendments. Commissioner moved to set a public hearing for January 4, 2010 for the proposed Rules of Order that were amended by the previous vote. Commissioner Barber seconded and the motion passed unanimously.**

19. CLOSED SESSION - PERSONNEL

Commissioner Mitchell moved at 8:40 pm for the Board to enter Closed Session pursuant to North Carolina General Statute 143-318.11(a)(6) for a Personnel Matter. The motion was seconded by Commissioner Barber and passed unanimously.

Before going into Closed Session, Chairman Ford called for a recess at 8:40 pm.

Chairman Ford reconvened the meeting and the Board entered Closed Session at 8:50 pm.

The Board returned to Open Session at 9:20 pm.

Commissioner Mitchell moved to eliminate the position of Director of Administration and to authorize the County Manager to reassign duties as necessary. The motion was seconded by Commissioner Hall and passed unanimously.

Recognition of Sheriff George Wilhelm

At this point in the meeting, Chairman Ford recognized Sheriff George Wilhelm who came forward to address the Board. Sheriff Wilhelm's daughter, Susan, distributed a handout to the Board.

Sheriff Wilhelm said he had thirty (30) years of service in law enforcement and at this time had decided to retire, effective 12:00 a.m. November 30, 2009.

Sheriff Wilhelm said according to North Carolina General Statute § 162-5, the vacancy shall be filled with an election by the Board of Commissioners. Sheriff Wilhelm recommended that Chief Deputy Kevin Auten be elected by the Board to serve until the election. Sheriff Wilhelm said Chief Deputy Auten was the most qualified to continue the ongoing projects of the Sheriff's Department.

Sheriff Wilhelm thanked the citizens of Rowan County for the opportunity to serve. Sheriff Wilhelm expressed hope that under the new statute the Board would allow for him to have access to health insurance. Sheriff Wilhelm also requested to keep his badge and sidearm.

Chairman Ford said the announcement had come as a surprise. Chairman Ford thanked Sheriff Wilhelm for his service.

Sheriff Wilhelm stated that Chief Deputy Auten had not been aware of his decision to retire. Sheriff Wilhelm expressed hope that whoever was elected would continue to enhance the department. Sheriff Wilhelm said he appreciated the Board building the jail to his request.

County Attorney Jay Dees said the Sheriff's request for health insurance would have to be deferred to the Personnel Board to consider the ramifications of altering any policy and bring the recommendation back to the Board at the December 7, 2009 meeting.

Commissioner Mitchell moved to refer the request to the Personnel Board. Commissioner Barber seconded and the motion passed unanimously.

ADJOURNMENT

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 9:30 pm. The motion was seconded by Commissioner Mitchell and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC
Clerk to the Board